

REMARKS

Claims 1 and 3-12 are pending in the present application. No additional claim fee is believed to be due.

Claims 1, 11, and 12 have been amended to more specifically characterize the location of the reinforcement nonwoven. Support for this amendment is found in Figures 2-4 of the specification. Claim 6 has been amended to more specifically characterize the strip of the absorbent article. Support for this amendment can be found on page 12, lines 5-17 of the Specification.

Claim 11 has also been amended to correct a transcriptional error regarding the term "backsheet." Support for this amendment is found in claim 11 as filed.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC 103(a) Over Saisaka et al. in view of Suzuki et al.

Claims 1 and 3-11 have been rejected under 35 USC 103(a) as being unpatentable over U.S. Pat. No. 5,624,424 issued to Saisaka et al. in view of U.S. Pat. No. 5,246,432 issued to Suzuki et al. In order to establish a prima facie case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.* Applicants respectfully traverse the rejection by the Office Action because there is no motivation to make the cited combination of references, and the cited combination of references fails to teach or suggest all of the claim limitations of the claimed invention.

There is no motivation to make the suggested combination of references. The Saisaka et al. reference teaches a disposable diaper having an outermost layer 21. (col. 6, lines 25-30). The Office Action provides that the Saisaka et al. reference teaches a "film 21 immediately adjacent to an inner-facing surface of the backsheet and ear panels." However, Figures 2, 3, 5-10, 13, 14, and 17 of the Saisaka et al. reference clearly show the "outermost sheet layer 21" as the outermost layer of the entire article. Therefore, the outermost layer 21 cannot be joined to an inner facing surface of the backsheet.

In contrast, the Suzuki et al. reference teaches a liquid-impermeable and moisture permeable sheet 10 which is joined with an inner facing surface of the backsheet. (col. 2, lines

30-33, Fig. 1). In the case at bar, the Office Action seeks to modify the outermost layer 21 of the Saisaka et al. reference with the liquid-impermeable and moisture-permeable sheet 10 of the Suzuki et al. reference. Because the Saisaka et al. reference teaches that the outermost layer 21 is the outer-facing surface of the disposable diaper, the Saisaka et al. reference teaches away from the suggested combination.

Furthermore, assuming *arguendo* that there is motivation to make the suggested combination, the Office Action still fails to establish a *prima facie* case of obviousness because the suggested combination fails to teach or suggest all of the claim limitations of the claimed invention. Amended claims 1 and 11 recite, *inter alia*, "a reinforcement nonwoven joined to an inner-facing surface of the backsheet." The Office Action provides that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the film of Saisaka with a nonwoven with barrier characteristics as taught in Suzuki." (page 4, lines 8-10, Office Action). But, even if the film 21 of the Saisaka reference was modified with the liquid-impermeable and moisture permeable sheet 10, the sheet 10 would still be the outermost layer of the article taught in the Saisaka et al. reference. Therefore, the sheet 10 would not be "joined to an inner-facing surface of the backsheet," as recited *inter alia*, in claims 1 and 11.

Moreover, amended claim 1 recites, *inter alia*, "the reinforcement nonwoven does not extend the entire longitudinal length of the absorbent article." Conversely, the Saisaka et al. reference teaches a film 21 which extends the entire length of the absorbent article. (See Figures 2, 3, 6, 8, 10, 13, and 14). Similarly, the Suzuki et al. reference teaches a liquid-impermeable and moisture-permeable sheet 10 which extends the entire longitudinal length of absorbent article. (See Figure 1).

Last, amended claim 11, recites, *inter alia*, "whereby the reinforcement nonwoven provides topsheet-like benefits." The Saisaka et al. reference fails to teach or suggest that the outermost layer 21 provides topsheet like benefits. The Office Action notes that the "reinforcement nonwoven" of the Suzuki et al. reference "provides topsheet like benefits in that the reinforcement nonwoven is moisture permeable." (pg. 7, lines 10-15 of the Office Action). However, the Suzuki et al. reference describes the reinforcement nonwoven not only as moisture permeable but also as **liquid-impermeable**. (See col. 2, lines 30-35)(emphasis added). Thus, Applicants assert that the reinforcement nonwoven taught or suggested by the Suzuki et al. reference does not provide topsheet like benefits as claimed in claim 11. Therefore, the suggested combination of the cited references fails to teach or suggest all of the claim limitations of independent claim 11.

Because there is no motivation to combine the cited references and because the cited combination fails to teach or suggest all of the claim limitations of the claimed invention, the Office Action has failed to establish a *prima facie* case of obviousness. Thus, Applicants assert

that amended claims 1 and 11 are nonobvious over the cited references and are therefore in condition for allowance. Also, because claims 3-10 depend from claim 1, Applicants assert that they too are nonobvious over the cited references and are also in condition for allowance.

Rejection Under 35 USC 103(a) Over Saisaka et al. in view of Suzuki et al. further in view of
Osborn, III et al.

Claim 12 has been rejected under 35 USC 103(a) as being unpatentable over U.S. Pat. No. 5,624,424 issued to Saisaka et al. in view of U.S. Pat. No. 5,246,432 issued to Suzuki et al. and further in view of U.S. Pat. No. 5,346,486 issued to Osborn, III et al. Applicants respectfully traverse this rejection because there is no motivation to make the suggested combination and because the cited combination fails to teach or suggest all of the claim limitations of the claimed invention.

First, there is no motivation to make the suggested combination of references. The Osborn III et al. reference teaches a sanitary napkin which has laterally extensible flaps. (Abstract). These flaps are joined to the backsheet 24 which either substantially encloses the absorbent core 26, or the flaps are joined to the inner facing surface of the backsheet 26. (See Figs. 4-5). So, the Osborn III et al. reference, similar to the Suzuki et al. reference teaches a flap or a sheet, respectively, joined to an inner-facing surface of the backsheet. However, as discussed previously, the Saisaka et al. reference teaches a film which is the outer most layer of the article thereby precluding joining to an inner-facing surface of the backsheet. Therefore, Applicants assert that there is no motivation to make the suggested combination of references.

Second, assuming *arguendo* that there is sufficient motivation to make the suggested combination, the cited references do not teach all of the claim limitations of the claimed invention. Amended claim 12 recites, *inter alia*, "the reinforcement nonwoven not substantially overlapping the containment assembly." The Osborn, III et al. reference, as shown in Figures 1-5, teaches the alleged reinforcement layer for the flaps 28 overlapping the containment assembly of the absorbent article 20. Therefore, any suggested combination incorporating the extensible flap of the Osborn, III et al. reference substantially overlaps the containment assembly of the absorbent article and therefore does not teach or suggest all of the claim limitations of the claimed invention.

Moreover, amended claim 12 recites, *inter alia*, "a reinforcement nonwoven joined to an inner-facing surface of the backsheet." The Office Action provides that "[i]t would have been obvious to one having of ordinary skill in the art at the time the article was made to modify the article of Saisaka/Suzuki to have the claimed tensile strength in the reinforcement nonwoven for

the benefits disclosed in Osborn.” (page 8, lines 15-18, Office Action). As discussed previously, even if the film 21 of the Saisaka reference was modified with the liquid-impermeable and moisture permeable sheet 10, the sheet 10 would still be the outermost layer of the article taught in the Saisaka et al. reference. So the addition of the tensile strength of the Osborn reference would still not satisfy the limitation of “joined to an inner-facing surface of the backsheet,” as recited *inter alia*, in claim 12.

Because there is no motivation to combine the cited references and because the cited combination of references fails to teach or suggest all of the claim limitations of the claimed invention, the Office Action has failed to establish a *prima facie*, case of obviousness. Therefore, Applicants assert that claim 12 is nonobvious over the cited combination of references and is therefore in condition for allowance.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 and 3-12.

Respectfully submitted,

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